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MODERN TAXATION.¹

There has probably never been a period in the history of the world in which the subject of taxation has claimed a wider or more intelligent interest than it does to-day. This is true the civilized world over. From states federal and consolidated, monarchical, and democratic, old and new, conservative and progressive, there comes one great and universal demand for relief from what is everywhere felt to be an unjust and cumbersome system of raising the public revenue. It is fortunate that these complaints, universal in character and directed rather against the inequalities of taxation than against taxation itself, have enlisted the active sympathies of some of the keenest minds of the century. In our own country no one has investigated the subject more thoroughly and with more brilliant success than the author whose collected results, half of which have never before been published, are here, with some exceptions, published in one volume.

Notwithstanding the promptness — although not without considerable inward murmurings — with which the average citizen of a modern European or American state pays his assessments for the support of government, our various systems of public revenues are not only of comparatively recent origin, but are, in a large measure, the outgrowths of the primitive custom of voluntary offerings made to the king or tribal chieftain, which, like many other early usages, after undergoing a variety of alterations, finally crystallized into common law. Naturally, however, the taxes or the prototypes of taxes, of a primitive, self-governing village community were very different in character and amount from our taxes of latter-day, thorough going industrial democracy: for it must be remembered that according to

¹ *Essays in Taxation.* By Edwin R. A. Seligman. Macmillan & Co., London and New York. 1895. 8vo. pp. x., 434.

generally accredited theories, property at the dawn of history was owned in common, and the functions of government were confined to the narrowest limits conceivable. Private property, ownership in severalty of land, the division of labor, class differentiation, these vital matters of mediæval and modern times have not yet taken place, while the main work of the king, whom strong personal characteristics have forced into prominence, is to protect the community from external assaults and to administer justice between man and man. But so soon as the community had advanced far enough to feel such public wants as roads and bridges, the relation of the individual to society at large was recognized, and administration began. Property being held in common, those simple public demands were usually met by the personal efforts of the tribal members. Slowly, however, owing to ambition and pride and avarice, the personal needs of the sovereign widen, and these he endeavors to satisfy with the spoils captured in petty forays against neighboring tribes and with the tribute levied upon weaker chieftains. Part of the treasure so secured finds its way into the communal coffers, part goes to the soldiers, and part is retained by the king himself, who continues still further to increase his treasury by assuming control of activities such as the preservation of the peace, the coining of money, and the establishment of weights and measures. Finally the rights of wreck, escheat, and confiscation are accorded him. With this development of royal prerogative, the property of the king naturally differentiates itself from public property ; and we are now on the high road to private property, a royal exchequer, and a public revenue. What is no less important to know, the voluntary offerings have in the meantime become compulsory, but are still spasmodic rather than regular and confined to but few objects. In discussing these payments, Dr. Seligman says : "The compulsory contributions are still largely personal services, connected with the common security. Such was the early *trinoda necessitas*, the liability to military service, to watch and ward, and

to the repair of the bridges and fortifications. The first forced contribution of the individual to the maintenance of the common welfare is always seen in the rude attempt to assess everyone according to his ability to bear the common burden — his faculty. This faculty consists in the enforced participation in the administration. But there is not yet any idea of taxation of property. . . . there is practically no private property.”

Having thus far sketched the evolution of taxation, our author passes to an explanation of the fact that with the growth of civilization private property arises, and with it the primitive equality of the village community gives way to inequality. Commerce expands, exchange becomes more extensive and complex, greater demands are made upon the public revenue, and the ruler is obliged to raise additional money for public purposes. But although the need of taxation is felt, what is known to-day as a direct tax is out of the question. Public opinion is not ripe for it, for only conquered nations pay such a tax. But what the sovereign is unable to accomplish directly he accomplishes covertly. He may raise the necessary funds by extending his prerogatives or by granting special protection to individuals in return for special sums of money. This brings us to the period of tolls and fees which is succeeded by the era of indirect taxation. This enables us to understand why direct taxation is so often unpopular, and since the earliest manifestations of the taxing power, are not infrequently merciless and brutal, Dr. Seligman is inclined to think they react upon the public consciousness and tend to stunt the growth of any feeling of obligation. After a series of evolutions, well illustrated in the etymological changes which the idea of contributions to the public revenue has undergone, we finally reach the stage of direct taxation, when a rate or assessment is fixed by the government without any reference to the volition of the taxpayer.

As enlightenment developes, the scope of governmental activity widens, which calls for an ever increasing re-

venue. This a system of direct taxation renders possible. Differences in wealth, moreover, are no longer merely quantitative, but now become qualitative. In other words we not only have the rich and the poor, but owing to close differentiation, landlords, capitalists, undertakers and laborers appear. Then again, the requirements of commerce demand better means of transportation and communication. The highways must be improved, canals extended, railways built, telegraph lines established, and a postal service developed. Our author further points out that the less material ends of government are also forcing their way into general favor. "Education," he continues, "must be provided, hospitals and asylums must be erected, and the sanitary conditions must be looked after. Finally comes the immense growth of the modern state, with its new functions due partly to the industrial revolution, partly to the growth of democracy, and partly to the recognition in legislation of the preventive as against the repressive principle. These new functions mean fresh expenditures; and these expenditures mean increased taxes. Thus the characteristic mark of the modern age is taxation as against the more or less self-sufficing public economy of former times."

Administration also tends to become more and more intricate. Not only does the community, through the clan and the tribe, develop into the state; but side by side with the evolution of nationality, goes that of local autonomy. The result is that two, and sometimes more than two, governments must be supported by the same community; and the difficulties become extremely great when the government happens to be federal in character as is the case, for example, with the American and German governments. From the administrative point of view we can, therefore, easily understand how difficult it becomes to apportion the taxes equitably among the several town, city, county, state, and national governments. And although Dr. Seligman does not discuss our national system of taxation, it is unnecessary to remind the intelligent reader that it consists

largely of the revenues derived from duties on importations, and is therefore, to this extent, indirect.

As mentioned already, direct taxation is the last stage in what our author calls the historical development of taxation. But in the early days of classic antiquity this form of raising a public revenue appears to have been resorted to only in times of extraordinarily pressing needs, and even then was regarded more in the light of a compulsory loan. It was not until after the establishment of the empire, for example, that the direct taxation of Roman citizens began; and the history of mediæval Europe and modern America reflects the development of the same process. On this exceedingly interesting point Dr. Seligman observes: "In some cases, however, this historical process assumes a slightly different form. It depends entirely on the economic conditions and on the relative importance of the various social classes. For instance, it is incontrovertible that certain kinds of indirect payments always come first, as has been explained above. But when the people understand that indirect charges on commodities increase their price and thus form veritable taxes, it sometimes happens that more opposition is shown to indirect than to direct taxation. In such cases direct taxes furnish the ordinary revenue, and it is only after a severe struggle that indirect taxes are introduced."

After describing the economic relations which condition the interworking of direct and indirect taxation, our author proceeds to indicate the manner in which these economic conditions affect the growth of direct taxation itself and cautions tax reformers that they cannot expect to do much if these conditions are not ready for their proposals. This wise counsel should be taken well to heart. But even in the matter of direct taxation we can learn much by going back to primitive society where there exists "a certain rough equality in the personal status and the personal abilities of the individual." This is the origin of the poll or capitation tax, the first rude manifestation of the equalities of taxation. Property is communal, all are equal, what more

natural therefore than this capitation tax? But as the social conscience gradually unfolds itself, it begins to be recognized that the obligations of the members of the body corporate are by no means equal; for not only are physical and intellectual differences perceived, but with the evolution of proprietary rights, greater or less inequalities in the possession of worldly or material riches are observed. The poll or capitation tax is thus seen to be no longer equitable and is abolished. But in democracies there tends to linger in the popular mind a rather persistent reminiscence of that early political equality based on the supposition of economic equality. This explains the phenomenon of a poll tax long after its justification has vanished. Here and there, however, it assumes a political significance when its payment is made a prerequisite to the exercise of the right of voting; but even this becomes a farce when political parties pay the tax.

Dr. Seligman's observations along those lines relating to the growth of the property tax, will prove so especially valuable to readers living in the Southern States, that it may not be out of place to refer to them at some length. In the author's opinion, two central facts are stamped upon early civilization, namely, the preponderance of agriculture and the existence of slavery. This leads to a discussion of that difference between ancient and modern economic theories alluded to above when we discovered that while ancient wealth was in its division quantitative, modern wealth is both quantitative and qualitative. In ancient times no distinct shares in distribution existed, because there was no important capital apart from landed property. With this mass of property, moreover, composed of the land and the means of cultivating it, the direct property tax must take the shape either of a land tax or a tax on the slaves, cattle, or agricultural implements. And this is exactly what has always happened, for in this particular period such a tax is the only just one that can be devised; but the landed property tax is not so much on real estate as on the

products of realty. For it must be remembered that down to a comparatively late day in history, land was inalienable, being tied up in the families of a feudal aristocracy, but it possessed a rental value which could be assessed. By the time our own country was settled, however, acts of parliament, together with the yet subtler legislation of the judiciary, had broken the fetters that bound up landed property, and made ownership in severalty possible. In America, therefore, the property tax on the market value of land early made its appearance. Meanwhile a great change takes place in economic life and this change is not without its influence upon theretofore accredited ideas of justice in taxation. For with increasing prosperity, resulting from the expansion of commerce and the growth of municipalities, the supremacy of landed interests begins to wane, and personal property, once despised, commences rapidly to rise in the scale of wealth. Since this personalty is composed of visible, tangible objects, difficult to conceal, and owned by the land owner himself, there is at first but little change in the situation. All being property, all is taxed. The next change, however, ushers in a widely different era. The primitive family group breaks up; slavery decays; the commercial instinct becomes stronger; trade is now carried on by a special class; new and unheard of forms of property, immaterial and intangible, representing the stock of corporations and the credits of the commercial world, come into use; capital grows, and on the fragments of the old mass of property, the free laborer appears. The landlord is no longer supreme. Personal property, in the shape of productive capital and of unproductive wealth, increases in a continually accelerating ratio. Finally, as in our industrial system, the movables outrank the immovables; and in both extent and influence real estate is completely overshadowed by personal property. Developing these facts still further, Dr. Seligman writes: "Now begins the contest between landed and the moneyed interest, between rent and profit. The landowners in mediæval times, like the farmers in our

own times, vainly attempt to expand the original property tax so as to include all these new forms of property. The capitalist and moneyed class either seek to shift the burden by devising the indirect tax of which we have spoken above, or they attempt to escape the burden entirely through evasion or through lax administration of the property tax. When the differences in wealth become striking and the lower classes are practically penniless, the landed proprietors and the trades combine to throw the burden on the agricultural laborers and the urban artisans, although they may still struggle between themselves as to the division of the remainder of the burden. When aristocratic conditions prevail less strongly, as in America up to the present time, the laborer fares better, but the contest between the farmer and city resident assumes a more acute form. The history of modern taxation is largely a history of these class antagonisms." Notwithstanding these struggles between opposing interests, everything makes for the growth of standards of justice in taxation. In a word the history of taxation shows the evolution of the idea that each individual should help the community in proportion to his ability to help himself, and this we call the principle of faculty or ability in taxation. What the test of this ability should be has been variously answered. After having made an unsatisfactory trial of expenditure, property, and product as proper bases of ability, revenue or income has, in modern times, come to be regarded as the fairest test of individual capacity.

In his chapter entitled "The General Property Tax," our author treats of the practical defects, the history, and the theory of this tax, and concludes that it is "as destitute of theoretical justification as it is defective in its practical application," violating alike the canons of Adam Smith regarding uniformity and universality and at the same time being repressive, and tending to dishonesty, and double taxation. One great drawback to the general property tax lies in the fact that a great deal of personal property to-day is intangible in its nature and can easily escape assessment.

This has resulted in the imposition upon realty of the great burden of taxation notwithstanding the fact that in modern civilization personalty is far more valuable than realty. Wherever the general property tax exists, therefore, one hears bitter complaints against the glaring injustice of the system ; for the real estate being discernible by all the world is naturally assessed, while the bulk of the personal property escapes taxation altogether, simply because of its intangible nature. Officials charged with the assessment and collection of taxes have repeatedly called attention to this injustice and Dr. Seligman quotes the following from New York reports on taxation :

“A more unequal and partial system of taxation could not well be devised.”

“The defects of our system are too glaring and operate too oppressively to be longer tolerated.”

“The burdens are so heavy and the inequalities so gross, as almost to paralyze and dishearten the people.”

“The absolute inefficiency of the old and rickety statutes passed in a bygone generation [is patent to all.]”

“The hope of obtaining satisfactory results from the present broken, shattered, leaky laws is vain.”

“The system is a farce, sham, humbug.”

“The present result is a travesty upon our taxing system, which aims to be equal and just.”

“[The general property tax is] a reproach to the State, an outrage upon the people, a disgrace to the civilization of the nineteenth century, and worthy only of an age of mental and moral darkness and degradation, when the ‘only equal rights were those of the equal robber.’”

These self-criticisms, however, hold out the promise of improvement. For there is always hope for a community that has the intelligence to discover its shortcomings and the honesty both to denounce them and courageously to set about the task of correcting them.

Our author does not favor a single tax, which while old in theory, continually re-appears in a new form. It is, in his

opinion, objectionable from many points of view, but notably for the reason that it ignores the principle of relative ability and puts the burden of the many upon the shoulders of the few.

In his essay on what is known as double taxation, taxing the same person or thing twice, Dr. Seligman adds much light to one of the most vexed questions in finance. As is well known, double taxation may arise in numerous ways. Formerly, a man and his wealth occupied the same jurisdiction or country; but nowadays, owing to the increase of intercourse and the cosmopolitan character of capital, a person may reside in one community or country and own property in any number of other communities or countries. If the foreign communities tax his property, should the same property be taxed by his own government? Take another case. A owns a tract of land worth \$10,000, on which B has a mortgage to the amount of \$5,000. The value of the property is but \$10,000, yet in the same community A is taxed the full valuation of the property, while B is taxed the value of the mortgage. Recent reforms, however, have permitted the owner of property to deduct the amount of indebtedness thereon. This is especially true of those European countries that are discarding the tax on product for the income tax. This tax, wherever adopted, allows interest on indebtedness to be deducted on the ground that a man should be taxed on what he really owns. More complicated forms of double taxation are seen in the taxation of corporations and of the stockholders in the same. The whole question is one of extreme importance, particularly to a people whose fiscal problems are so often implicated with the more delicate constitutional question arising under interstate commercial relations. After a careful consideration of this feature of the difficulty, Dr. Seligman draws this weighty conclusion: "It cannot be too strongly emphasized that in Federal States no satisfactory system of taxation can be attained until two conditions are realized. We need, in the first place, a substantial interstate agreement to pursue

the same general policy in cases of conflicting jurisdiction ; and we need, in the second place, a virtual acceptance of the doctrine of economic interests in taxation."

Among those who advocate increased functions on the part of the state, no theory is more popular than that of converting the power of taxation into an engine of social reform. It is often pointed out, for example, that in every progressive government, local or national, the annual budget tends to grow larger and larger thus indicating a continued increase of public activity. The taxing power has been called into play to discourage the liquor traffic, to encourage manufacturers, to protect the helpless, to foster the growth of education, and to contribute in numberless ways to what has been supposed to be the good of all. Why not employ it to discourage the growth of large fortunes? This old question has again come to the front in discussions regarding the inheritance tax. Modern democracy has succeeded in securing the passage of inheritance tax laws in many jurisdictions. In America, several of our States have such laws. Dr. Seligman furnishes the following table showing the yield of this tax in 1894 in six of our more wealthy commonwealths ; New York, \$1,688,954 ; Pennsylvania, \$869,179 ; Massachusetts, \$239,368 ; New Jersey, \$204,695 ; Maryland, \$62,636 ; Connecticut, \$74,179.

Three chapters of this volume are devoted to the subject of the taxation of corporations. Many will no doubt find this the most valuable part of Dr. Seligman's work. For the proper management and control of these bodies is demanding the most earnest attention of the public as well as of the vast army whose very existence depends upon these institutions. This, of course, is not the place for a history of corporations, but it may contribute to a better understanding of the difficulties in the way of taxing them to recall the fact that these bodies corporate have multiplied of late in a most astounding manner, owing to the influences of what is familiarly known as the industrial revolution. For a long time the manufacturer produced for home consumption, the

producer's operations were confined to the surrounding country, and the carrier's journeys were comparatively limited. But the discovery of steam as a means of propulsion brought with it a train of changes, foremost of which was the creation of a world market through improved means of transportation and communication. The field of operations was now almost boundless. The producer was no longer hampered by a limited demand for his goods, which the railway and the steamship were ready to carry to the utmost parts of the globe. Nor was the development of the post and the telegraph without its effect on the various banking systems, which were vast enough to extend their credit system almost everywhere. The great effects which these alterations in industry exerted upon economic conditions can scarcely be imagined. While under the old industrial system one individual could easily organize a bank, or act as carrier, or as manufacturer supply the few wants of the community, this now became impossible. Millions of dollars were required where hundreds were formerly ample. Even partnerships were inadequate, for few felt like incurring the tremendous risks involved, to say nothing of the cumbersome management which a partnership in such large industries would have meant. So, quite naturally, recourse was had to the corporation, an institution said to have been inherited by us from ancient Rome, which lingering through the Middle Ages in various ecclesiastical guises, gained fresh life early in recent history when it began to be employed for purposes of business and government. In England corporations have for a long time been variously divided; but to-day they are most usually designated, both there and in America, as public and private corporations, the first being for the most part composed of various municipalities, such as towns, cities, and counties, and the second of the bulk of business enterprises now carried on through corporate management, as for example, railway, manufacturing, mining, banking, and insurance companies. Among the advantages of a corporation are those of perpetual suc-

cession, and limited liability. It is a juristic person, in theory at least, different from the members composing it, so that although the latter may die, the corporation still lives on, having many of the rights of a natural person. It has, for example, the capacity to sue and be sued, and to act in its corporate name, without the signature of its more or less numerous stockholders. But of greater significance still, from an economic standpoint, the stockholders of a corporation are limited in liability to the face value of their shares. We now, therefore, have a means by which the process of capital building may be carried on indefinitely. At the same time, under proper management, an opportunity for investment is afforded small investors everywhere.

With the growth of corporate activity, the difficulty of taxing corporations was increased. Shareholders might be scattered throughout the world. Then again, corporations, like other persons, may transact business in many different localities. An illustration of this fact is presented by some of our large railway companies, which frequently traverse many different States. Add to this the fact that corporations, both public and private, often become indebted, and we can get some idea of the very many difficulties the subject involves. Dr. Seligman lays down the following eleven principles that should be followed in the taxation of corporations:

1. Corporations should be taxed separately and on different principles from individuals.
2. Corporations should be taxed locally on their real estate only.
3. Corporations should be taxed for State purposes on their earnings, or on their capital and loans.
4. Only so much of total earnings or capital should be taxed as is actually received or employed within the State. In the case of transportation companies, a convenient and accurate test is mileage.
5. When capital and loans are taxed, the residence of the shareholder or bondholder should be immaterial.

6. There should be no distinction between domestic and foreign corporations. Each should be taxed for its business done or capital employed within the State.

7. If corporations are taxed on their property, property beyond the State should be exempt.

8. If corporations are taxed on their capital stock, they should not be taxed again on their property.

9. When corporate stock or property is taxed, the shareholder should be exempt. If corporate loans are taxed, the bondholder should be exempt.

10. When the corporations and the shareholders or bondholders are residents of different States, the tax should be divided between the States by interstate agreements.

11. An additional tax should be levied on corporations which have through national, legal, or economic forces become monopolistic enterprises.

The remaining essays are devoted to a classification of public revenues, a subject too much neglected in America ; to recent reforms in taxation, those made in Switzerland and Germany being of especial significance to citizens of our own country ; to recent European literature, and recent American Reports on taxation. These last two essays contain very valuable bibliographies with a careful criticism of the same.

In conclusion, attention should be called to the make-up of the volume and to the valuable index which is accredited by the author to Dr. West. Altogether Dr. Seligman's work is by all odds superior to any production of its kind in our language, and should not only be read by every student of economics, but should also find its way into the hands of every citizen who loves his country.

B. J. RAMAGE.